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FISCAL IMPACT STATEMENT

LS 6453

BILL NUMBER: SB 292

NOTE PREPARED: Feb 6, 2007

BILL AMENDED: Feb 1, 2007

SUBJECT: Various Election Law Matters.

FIRST AUTHOR: Sen. Landske

FIRST SPONSOR:

BILL STATUS: CR Adopted - 1st House

FUNDS AFFECTED: X GENERAL
X DEDICATED
FEDERAL

IMPACT: State & Local

Summary of Legislation: (Amended) This bill makes the following changes in election law:

Conference Reimbursement- Restates county reimbursement procedures for attending the annual election administrators conference.

Small Town Elections- Makes procedural changes concerning small town elections.

Dissolving Candidate Committees- Permits the Election Commission or a county election board to dissolve a committee without being required as part of the dissolution (as under current law) to waive outstanding civil penalties previously imposed on the committee. Specifies that the chairman or treasurer of the committee remain liable for any committee debts, notwithstanding the dissolution of the committee.

Reporting Period for Large Contributions- Specifies the reporting period for large contributions to candidates for statewide office.

Primary Ballot Cards- Specifies the number of ballot cards that must be made available to voters who are 17 years of age in a primary and to voters who wish to vote in school board elections only or on a public question only at a primary.

Special Election of U.S. Representatives- Establishes procedures for conducting a special election for United States Representative in conformity with a federal law applicable when there are more than 100 vacancies.

Special Election of General Assembly Members- Provides for special elections when a vacancy exists in the

General Assembly in an office formerly held by a person elected as an independent candidate or as the candidate of a minor political party.

Matching Candidate and Ballot Questions/Device Certification Dates- Changes several dates concerning the certification of ballot questions and devices to conform to the date in current law for the certification of candidates.

Precinct Boundaries- Revises precinct boundary change procedures.

Violations- For voting system violations: (A) defines "election" for purposes of the Secretary of State's enforcement of violations; (B) specifies that, in computing the maximum civil penalty, a violation that occurs in more than one county is subject to the maximum civil penalty in each county; and (C) provides that the Secretary of State is not subject to the Indiana Code's administrative orders and procedures provisions in assessing a civil penalty.

Voting System Technical Oversight Program Account- Provides that the Voting System Technical Oversight Program Account is nonreverting and that voting system application fees are to be deposited in the Account. Permits the Account to be used for voting system statute enforcement and continuously appropriates money in the Account.

Absentee Ballots- Specifies certain absentee ballot procedures.

Audit of Election Records - Authorizes the Secretary of State to conduct audits to determine compliance with federal and state laws requiring the securing and retention of election records.

Vote Center Pilot County- Provides that voters who reside within the portion of a municipality located in a vote center pilot county may vote using vote center pilot county procedures.

Recount Procedures- Restates the maximum amount of a cash deposit or bond in a local recount proceeding.

Candidate Ballot Vacancies- Amends provisions concerning candidate ballot vacancy procedures.

Penalty Provision- Provides that a person who pays or accepts property to obtain signatures on a petition for ballot access commits a Class D felony if certain conditions exist.

Federal Law Update- Updates references to federal law.

Repealers- Repeals obsolete references to: certificates of election issued by the county auditor, paper ballots, and special polling places.

Effective Date: Upon passage; July 1, 2007.

Explanation of State Expenditures: *Matching Candidate and Ballot Questions/Device Certification Dates-* The bill would place the certification of public questions and devices on the same date as the certification of nominees and ballot placement. Under current law, the deadline for Secretary of State certification of independent or minor political party candidates, public questions, and providing counties with political party devices is noon, August 20. The bill would place this deadline at 74 days before the general election. Therefore, the proposed deadline for the 2008 general election would be approximately noon on Friday,

August 22, 2008.

Special Election of U.S. Representatives- The Election Division could require additional staff time to process candidate filings for U.S. Representative in the event of a special election. Depending on the number of persons that could file candidacy documents under emergency conditions, the Election Division would be able to process the documents within their existing level of resources.

Background Election Division: The Indiana Election Commission, under which the Election Division operates, reverted \$55,072 to the General Fund at the end of FY 2006. The Election Division had 11 full-time employees and three vacancies as of October 3, 2006.

Audit of Election Records - The Secretary of State would be required to audit 1% of all precincts in Indiana by June 1 of each year. The audit would focus on the status of precinct election materials retained by a circuit court clerk. The Secretary of State presently does not perform this type of audit. There are 5,604 precincts in Indiana which would require approximately 560 annual audits. The funds and resources required above could be supplied through a variety of sources, including the following: (1) existing staff and resources not currently being used to capacity; (2) existing staff and resources currently being used in another program; (3) authorized, but vacant, staff positions, including those positions that would need to be reclassified; (4) funds that, otherwise, would be reverted; or (5) new appropriations. Ultimately, the source of funds and resources required to satisfy the requirements of this bill will depend upon legislative and administrative actions.

Background on the Secretary of State: The Secretary of State reverted \$149,755 to the General Fund at the end of FY 2006 and \$120,467 at the end of FY 2005. As of February 5, 2007, the Secretary of State had 9 vacant positions with the combined salary of the positions totaling \$265,096.

Penalty Provision: A Class D felony is punishable by a prison term ranging from six months to three years or reduction to Class A misdemeanor depending upon mitigating and aggravating circumstances. Assuming offenders can be housed in existing facilities with no additional staff, the average cost for medical care, food, and clothing is approximately \$1,825 annually, or \$5 daily, per prisoner. However, any additional expenditures are likely to be small. The average length of stay in Department of Correction (DOC) facilities for all Class D felony offenders is approximately ten months.

Explanation of State Revenues: *Dissolving Candidate Committees-* This provision could increase collection of outstanding civil penalties assessed on candidate committees. Under current law, in order to be administratively dissolved, the Election Commission must determine that further efforts to collect outstanding civil penalties from a committee is not a prudent use of state resources. This provision would give the Commission the option to waive penalties *after* a committee has been administratively dissolved. Therefore, committees could be dissolved while remaining liable for any civil penalties assessed. As of December 19, 2006, there were 39 committees with \$20,900 in unpaid civil penalties that have been turned over to the Attorney General by the Election Division. Civil penalties collected from candidate committees are deposited into the Campaign Finance Enforcement Account.

Violations- To the extent that a voting violation occurs in more than one county, the Secretary of State would be able to impose a penalty for separate violations. The Secretary of State may impose a civil penalty that may not exceed \$300,000, plus any investigative costs incurred and documented by the Secretary of State. All civil penalties collected under this chapter are deposited in the Voting System Technical Oversight Program Account.

Voting System Technical Oversight Program Account- The Secretary of State would be able to use revenue from the Program Account to investigate alleged violations of election law. Additionally, the account would receive revenues from certification fees for voting systems (currently \$1,500 per certification) and contributions from a settlement agreement executed with a voting system vendor. The bill would make the Program Account non-reverting to the General Fund and the funds within continuously appropriated. Under current law, only civil penalties from voting system violations are deposited into the Program Account. As of December 18, 2006, for the current fiscal year, \$245,000 in revenue has been deposited in the Program Account.

Penalty Provision- If additional court cases occur and fines are collected, revenue to both the Common School Fund (from criminal fines) and the state General Fund (from court fees) would increase. The maximum fine for a Class D felony is \$10,000. However, any additional revenues would likely be small.

Explanation of Local Expenditures: *Conference Reimbursement-* All expenses allowed for newly elected or appointed clerks or county election board office holders to attend the Election Division instructional conference would be paid from the county general fund. Under current law, only the registration fee is to be paid from the county general fund. The other allowances under current law are: a \$24 per diem and mileage and lodging equal to state rates.

Small Town Elections- The bill would remove the requirement that a certificate of nomination from a town convention would no longer have to be filed with county clerks. This provision would minimally reduce the administrative responsibilities of county clerks.

Primary Ballot Cards- Under the bill, a county election board would have to provide enough separate ballots for school board and public questions to cover 100% of the number of voters in a precinct according to the poll list. Additionally, in primary elections, the county election board would have to provide enough ballots for persons that would be of age to vote or have proper residency by the general election to nominate candidates in a primary. This provision could increase ballot costs for counties with a ballot-card system by an indeterminable amount. The impact to local expenditures would depend on the number of voters affected in each county. Thirty-three counties use ballot-card voting systems that serve 2,230 precincts and 1.7 million voters.

Special Election of U.S. Representatives- County election boards may need additional appropriations to cover the expenses of a special election. Expenses to run an election include: precinct election board per diem, rental of a facility for polling (if necessary), and/or voting equipment (if necessary.)

Background Precinct Election Board Expenses: Based on a small sample of Indiana counties, per diem for election board members range from \$65 to \$150 for inspectors and from \$40 to \$100 for judges, clerks, and sheriffs.

Penalty Provision: If more defendants are detained in county jails prior to their court hearings, local expenditures for jail operations may increase. However, any additional expenditures would likely be small.

Explanation of Local Revenues: *Dissolving Candidate Committees-* This provision could increase the collection of outstanding civil penalties assessed on candidate committees. Under current law, in order to be administratively dissolved, county election boards must determine that further efforts to collect outstanding civil penalties from a committee are not a prudent use of local resources. The bill would allow boards the option to waive penalties *after* a committee has been administratively dissolved. Therefore,

committees could be dissolved while remaining liable for any penalties assessed.

Penalty Provision: If additional court actions occur and a guilty verdict is entered, local governments would receive revenue from court fees. However, the amounts would likely be small.

Recount Procedures- This provision would have the effect of placing an upper bound on the maximum amount of cash deposit or bond set by a trial court in a local recount petition. Under current law, cash deposits for a recount are placed in the county general fund.

State Agencies Affected: Department of Correction.

Local Agencies Affected: County election boards; Trial courts; Local law enforcement agencies.

Information Sources: Indiana Election Division; Various county election boards and registration offices; State Budget Agency: *Auditor's Trial Balance Database*.

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